

**NEW JERSEY POLLUTANT DISCHARGE ELIMINATION SYSTEM, N.J.A.C. 7:14A  
STORMWATER REGULATION; UNDERGROUND INJECTION CONTROL  
OUTLINE OF PROPOSED RULE CHANGES**

SEE JANUARY 6, 2003 ISSUE OF NEW JERSEY REGISTER; 35 N.J.R. 169(a)  
AND <http://www.njstormwater.org>

(public comment period extended to April 7, 2003; see March 17, 2003 New Jersey Register,  
35 N.J.R. 1331(a))

**OVERVIEW**

- The proposed rule changes will revise requirements concerning stormwater discharge permits, address new “Phase II” regulations that the United States Environmental Protection Agency published in the December 8, 1999 Federal Register concerning such permits, and integrate the New Jersey Pollutant Discharge Elimination System (NJPDES) program for “municipal” (that is, government agency) separate storm sewer systems with other aspects of stormwater management. In addition, proposed amendments will address the 1999 changes to the Federal Underground Injection Control (UIC) regulations and revise other UIC requirements relating to the issuance of the permits.
- **Most of the proposal focuses on the establishment and implementation of the proposed Municipal Stormwater Regulation Program.** Under this Program, potentially all of New Jersey’s 566 municipalities, all 21 counties, the New Jersey Department of Transportation (NJDOT), State highway authorities, and many other State, interstate, and Federal agencies will be required to obtain a NJPDES permit for stormwater discharges (to surface water or groundwater) from certain storm drainage systems called “small municipal separate storm sewer systems” (small MS4s).
- The proposal also expands NJPDES Discharge to Surface Water (DSW) permit requirements for stormwater discharges associated with construction activity, excludes from the NJPDES DSW permit requirement stormwater discharges from industrial facilities that have “Permanent No Exposure” of industrial activities or materials to stormwater, extends the deadline by which certain publicly owned or operated industrial facilities must apply for a NJPDES DSW stormwater permit, and eliminates the August 7, 2001 deadline by which other “Phase II” sources must apply for a NJPDES DSW stormwater permit.

## **MAJOR ELEMENTS**

### **1. Municipal Stormwater Regulation Program**

(mainly N.J.A.C. 7:14A-25 and related rule provisions noted below)

- Requires a NJPDES permit for stormwater discharge to surface water or groundwater from “small MS4s” that are:

Owned or operated by “Tier A” or “Tier B” Municipalities; or

Owned or operated by county, State, interstate, or Federal agencies, and that are located at certain “public complexes” (mainly in Tier A Municipalities) or at “highways or other thoroughfares” (or that receive “special designation”).

(N.J.A.C. 7:14A-24.2(a)6, 24.3(e), 25.1(b), 25.2, 25.3, and 25.8(a), and N.J.A.C. 7:14A-1.2 definitions of “municipality,” “municipal separate storm sewer,” and “small municipal separate storm sewer system” or “small MS4”.)

- Tier A Municipalities include municipalities that (1) are located entirely or partially within an “urbanized area” as determined by the 2000 Census (and have a population of at least 1,000 within an urbanized area); (2) have a population density of at least 1,000 per square mile, and a population of at least 10,000 as determined by the 2000 Census; or (3) have a stormwater sewer system discharging directly into the salt waters of Monmouth, Ocean, Atlantic, or Cape May counties. Every municipality not assigned to Tier A is assigned to Tier B. The proposal lists 467 Tier A Municipalities and 99 Tier B Municipalities. (N.J.A.C. 7:14A-25.3)
- “Public complexes” contain two or more buildings, and are either at colleges or universities that Statewide have at least 1,000 employees (usually present at least six hours per day on weekdays) or full-time students, or at other locations (e.g., hospitals, prisons, office complexes, or military bases) and have at least 1,000 employees, military personnel, or residents (including patients or prisoners) present at least six hours per day on weekdays. (N.J.A.C. 7:14A-25.2(a)2)
- Sets forth deadlines to apply for NJPDES permits for these small MS4s. This deadline is 30 days from the effective date of new subchapters 24 and 25, except in certain special circumstances. (N.J.A.C. 7:14A-24.4(a)7 and (a)8, 25.4, and 25.8(b))
- Requires the New Jersey Department of Environmental Protection (Department) to issue the Tier B Municipal Stormwater General Permit, and to issue one or more general NJPDES permits for other small MS4s (including Tier A Municipalities, public complexes, and highways and other thoroughfares). The permittee must develop, implement, and enforce a stormwater program that includes “Statewide Basic Requirements” (SBRs) and, where applicable, “Additional Measures” (AMs) specified in Water Quality Management Plans. (N.J.A.C. 7:14A-25.6(a) and (e), and 25.8(a), (e), and (g))

- Requires the Tier B stormwater program to include SBRs for post-construction stormwater management in new development and redevelopment, and for public education on stormwater impacts. (The Tier B Permit is a NJPDES permit under New Jersey’s Water Pollution Control Act, but is not a permit under the Federal Clean Water Act.) For Tier A Municipalities, and for county, State, interstate, or Federal agencies, the stormwater program must be described in a written stormwater pollution prevention plan, and must include these two SBRs, and five other SBRs for public involvement/participation, prohibiting improper disposal of waste, control of solid and floatable materials, maintenance yards and highway service areas, and employee training. (N.J.A.C. 7:14A-25.6(a) and (b), and 25.8(e), and N.J.A.C. 7:14A-1.2 definition of “illicit connection.”)
- Recognizes that the Department is responsible for implementing the SBR for construction site stormwater runoff control through the NJPDES DSW permit program for stormwater discharges associated with construction activity. The SBR for post-construction stormwater management in new development and redevelopment includes requirements to comply with the Department’s Stormwater Management Rules (N.J.A.C. 7:8), for which the Department has proposed a major update in the January 6, 2003 New Jersey Register (35 N.J.R. 119(a); public comment period extended at 35 N.J.R. 1328(a)). (N.J.A.C. 7:14A-25.6(b)2 and (b)3, 25.7(b), and 25.8(e)1)
- Requires each general permit for small MS4s to specify best management practices (BMPs) for each SBR, and the measurable goals that permittees are required to meet for each of those BMPs, including, as appropriate, an implementation schedule. Requires the Request for Authorization (RFA) for each general permit to include a certification acknowledging the BMPs and measurable goals specified in the permit. Establishes requirements for evaluation, recordkeeping, and reporting by the permittee. Identifies how and when a permittee may rely on another governmental or private entity to implement one or more control measures. Addresses individual NJPDES permit applications for small MS4s. (N.J.A.C. 7:14A-6.13(d)7, 7.9(a)1, 11.2(a)3, 16.4(a)21, 24.9(a)1, 25.5, 25.6(c) through (g) and (j), 25.7, 25.8(c), (d), and (f) through (i), and 25.9)

## **2. Expanded NJPDES DSW Permit Requirements for Stormwater Discharges Associated with Construction Activity**

- Requires entities that operate construction sites to obtain NPDES DSW permits for “stormwater discharge associated with small construction activity.” In general, this is the discharge to surface water, from a point or nonpoint source, of stormwater from construction activities that disturb at least one but less than five acres. Establishes minimum requirements for inspection and reporting by these entities. (N.J.A.C. 7:14A-11.1(b), 11.2(a)3, 24.2(a)3 and (b), 24.4(a)4 and (a)6, 24.7(a), 24.9(a)2, and 24.10, and N.J.A.C. 7:14A-1.2 definition of “stormwater discharge associated with small construction activity”)
- Requires the NJPDES DSW permit program for stormwater discharges associated with construction activity to include various program components, including permit conditions requiring that operating entities for construction sites control waste such as discarded building materials, concrete truck washout, chemicals, litter, sanitary waste, and other solid or hazardous waste. (N.J.A.C. 7:14A-24.10)

- Increases fee for “construction activity” stormwater general permit (NJPDES Permit No. NJ0088323) to \$300. (N.J.A.C. 7:14A-3.1(j))

### **3. Industrial Stormwater “Permanent No Exposure”**

Excludes, from the NJPDES DSW permit requirement, stormwater discharges from industrial facilities that have “Permanent No Exposure” of industrial activities or materials to stormwater discharged to surface water, submit a “Permanent No Exposure Certification” to the Department every five years, and allow facility inspection. (N.J.A.C. 7:14A-24.6, and amendments to N.J.A.C. 7:14A-1.2 definition of “stormwater discharge associated with industrial activity”)

### **4. Stormwater DSW from Publicly Owned or Operated Industrial Facilities (“ISTEA Sources”)**

For facilities (other than airports, powerplants, or uncontrolled sanitary landfills) that have “stormwater discharge associated with industrial activity,” but are owned or operated by a public agency with a population under 100,000, changes the deadline to apply for a NJPDES DSW permit from August 7, 2001 (or earlier) to 30 days from the effective date of new subchapter 24. (N.J.A.C. 7:14A-24.4(a)1i)

### **5. Other “Phase II” Sources**

Eliminates the August 7, 2001 deadline by which other “Phase II” stormwater point sources must apply for a NJPDES DSW stormwater permit. (N.J.A.C. 7:14A-24.2(c)1; repeal of N.J.A.C. 7:14A-11.5(g)1ii)

### **6. Underground Injection Control (UIC) Program**

- Addresses changes to the Federal UIC regulations published in the December 7, 1999 Federal Register, including changes concerning large-capacity cesspools and motor vehicle waste disposal wells. (N.J.A.C. 7:14A-8.4(a)3 and 8.16(d)2 and (g))
- Makes injection of stormwater from certain municipal separate storm sewers, residential areas, and animal feeding operations eligible for a UIC permit-by-rule. (N.J.A.C. 7:14A-8.5(b))
- Clarifies the use of general permits as well as individual UIC permits to regulate underground injection activities not authorized by a UIC permit-by-rule. (N.J.A.C. 7:14A-8.3, 8.4(a) and (c)1, 8.5(d) through (h), 8.8(b), 8.10(a)1 and (a)5, 8.11(b)3, and 8.16(c) and (d)3)

## **ADDITIONAL ELEMENTS**

### **1. Revised Definitions**

Revises definitions of “connection,” “interstate agency,” and “stormwater.” (N.J.A.C. 7:14A-1.2)

## **2. Concentrated Animal Feeding Operations (CAFOs)**

Revises N.J.A.C. 7:14A-2.13 to be more consistent with current 40 C.F.R. 122.23 (not the new Federal CAFO rule that is effective on April 14, 2003; see 68 Fed. Reg. 7175).

## **3. Requirements to Implement Best Management Practices for Stormwater DSW**

Clarifies that requirements to implement BMPs developed pursuant to the State Act or Section 402(p) of the Federal Clean Water Act are appropriate DSW permit conditions for the control of stormwater discharges. (N.J.A.C. 7:14A-6.2(b)1ii)

## **4. DGW Permit Exemption**

Exempts stormwater discharges from certain municipal separate storm sewers, residential areas, and animal feeding operations from the requirement to obtain a NJPDES discharge to groundwater (DGW) permit. (N.J.A.C. 7:14A-7.4(a)5, and 24.2(a)9 and (c)3)

## **5. Relocation of Existing Stormwater DSW Provisions**

Relocates existing N.J.A.C. 7:14A-11.2(a)3, (a)4, and 11.5 (and part of existing N.J.A.C. 7:14A-4.2(e)1 and 4.4(b)5) with amendments in several sections of new subchapter 24 and in N.J.A.C. 7:14A-25.10.

## **6. Special Determinations for Certain Nonpoint Source DSW**

Requires a NJPDES DSW permit if the Department determines that the nonpoint source stormwater DSW (or category of DSW within a geographic area) contributes to a violation of a surface water quality standard, or is a significant contributor of pollutants to surface water. (These determinations do not affect nonpoint source agricultural and silvicultural activities identified under N.J.A.C. 7:14A-2.5(a)4 or (a)5.) (N.J.A.C. 7:14A-11.1(b), 24.2(a)7 and (b), 24.4(a)4, and 24.7(a) and (c))

## **7. Permit Application Requirements for Stormwater Discharges Associated with Industrial Activity or Small Construction Activity, and for Certain Other Stormwater DSW**

Revises and relocates requirements in existing N.J.A.C. 7:14A-11.5(c) (and part of 11.5(g)). Revisions include identification of some different regulated classes of stormwater DSW, revisions to provide consistency with the Department's current NJPDES Form RF and "Application Completeness Checklist," and revisions to permit application requirements for stormwater discharges associated with construction activity. (N.J.A.C. 7:14A-24.7 and 24.8)

**SUBMIT WRITTEN COMMENTS BY APRIL 7, 2003 TO:**

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